

**REPRINT**

**SUBSTITUTE FOR**

**HOUSE BILL NO. 5736**

(As passed the House, December 3, 2002)

(As passed the Senate, December 13, 2002)

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending sections 2, 3, 4, and 4k (MCL 205.92, 205.93, 205.94,  
and 205.94k), sections 2 and 3 as amended by 2002 PA 511, section  
4 as amended by 2002 PA 456, and section 4k as amended by 2000 PA  
200.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. As used in this act:

2       (a) "Person" means an individual, firm, partnership, joint  
3 venture, association, social club, fraternal organization, munic-  
4 ipal or private corporation whether or not organized for profit,  
5 company, limited liability company, estate, trust, receiver,  
6 trustee, syndicate, the United States, this state, county, or any  
7 other group or combination acting as a unit, and the plural as

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1 well as the singular number, unless the intention to give a more  
2 limited meaning is disclosed by the context.

3 (b) "Use" means the exercise of a right or power over tangi-  
4 ble personal property incident to the ownership of that property  
5 including transfer of the property in a transaction where posses-  
6 sion is given.

7 (c) "Storage" means a keeping or retention of property in  
8 this state for any purpose after the property loses its inter-  
9 state character.

10 (d) "Seller" means the person from whom a purchase is made  
11 and includes every person selling tangible personal property or  
12 services for storage, use, or other consumption in this state.  
13 If, in the opinion of the department, it is necessary for the  
14 efficient administration of this act to regard a salesperson,  
15 representative, peddler, or canvasser as the agent of a dealer,  
16 distributor, supervisor, or employer under whom the person oper-  
17 ates or from whom he or she obtains tangible personal property or  
18 services sold by him or her for storage, use, or other consump-  
19 tion in this state, irrespective of whether or not he or she is  
20 making the sales on his or her own behalf or on behalf of the  
21 dealer, distributor, supervisor, or employer, the department may  
22 so consider him or her, and may consider the dealer, distributor,  
23 supervisor, or employer as the seller for the purpose of this  
24 act.

25 (e) "Purchase" means to acquire for a consideration, whether  
26 the acquisition is effected by a transfer of title, of  
27 possession, or of both, or a license to use or consume; whether

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1 the transfer is absolute or conditional, and by whatever means  
2 the transfer is effected; and whether consideration is a price or  
3 rental in money, or by way of exchange or barter.

4 (f) "Price" means the aggregate value in money of anything  
5 paid or delivered, or promised to be paid or delivered, by a con-  
6 sumer to a seller in the consummation and complete performance of  
7 the transaction by which tangible personal property or services  
8 are purchased or rented for storage, use, or other consumption in  
9 this state, without a deduction for the cost of the property  
10 sold, cost of materials used, labor or service cost, interest or  
11 discount paid, or any other expense. The price of tangible per-  
12 sonal property, for affixation to real estate, withdrawn by a  
13 construction contractor from inventory available for sale to  
14 others or made available by publication or price list as a fin-  
15 ished product for sale to others is the finished goods inventory  
16 value of the property. If a construction contractor manufac-  
17 tures, fabricates, or assembles tangible personal property before  
18 affixing it to real estate, the price of the property is equal to  
19 the sum of the materials cost of the property and the cost of  
20 labor to manufacture, fabricate, or assemble the property but  
21 does not include the cost of labor to cut, bend, assemble, or  
22 attach property at the site of affixation to real estate. For  
23 the purposes of the preceding sentence, for property withdrawn by  
24 a construction contractor from inventory available for sale to  
25 others or made available by publication or price list as a fin-  
26 ished product for sale to others, the materials cost of the  
27 property means the finished goods inventory value of the

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1 property. For purposes of this subdivision, "manufacture" means  
2 to convert or condition tangible personal property by changing  
3 the form, composition, quality, combination, or character of the  
4 property and "fabricate" means to modify or prepare tangible per-  
5 sonal property for affixation or assembly. The price of a motor  
6 vehicle, trailer coach, or titled watercraft is the full retail  
7 price of the motor vehicle, trailer coach, or titled watercraft  
8 being purchased. The tax collected by the seller from the con-  
9 sumer or lessee under this act is not considered part of the  
10 price, but is a tax collection for the benefit of the state, and  
11 a person other than the state shall not derive a benefit from the  
12 collection or payment of this tax. A price does not include an  
13 assessment imposed under the convention and tourism marketing  
14 act, 1980 PA 383, MCL 141.881 to 141.889, 1974 PA 263,  
15 MCL 141.861 to 141.867, the state convention facility development  
16 act, 1985 PA 106, MCL 207.621 to 207.640, the regional tourism  
17 marketing act, 1989 PA 244, MCL 141.891 to 141.900, 1991 PA 180,  
18 MCL 207.751 to 207.759, or the community convention or tourism  
19 marketing act, 1980 PA 395, MCL 141.871 to 141.880, that was  
20 added to charges for rooms or lodging otherwise subject, pursuant  
21 to section 3a, to tax under this act. Price does not include  
22 specific charges for technical support or for adapting or modify-  
23 ing prewritten, standard, or canned computer software programs to  
24 a purchaser's needs or equipment if the charges are separately  
25 stated and identified. The tax imposed under this act shall not  
26 be computed or collected on rental receipts if the tangible

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1 personal property rented or leased has previously been subjected  
2 to a Michigan sales or use tax when purchased by the lessor.

3 (g) "Consumer" means the person who has purchased tangible  
4 personal property or services for storage, use, or other consump-  
5 tion in this state and includes a person acquiring tangible per-  
6 sonal property if engaged in the business of constructing, alter-  
7 ing, repairing, or improving the real estate of others.

8 (h) "Business" means all activities engaged in by a person  
9 or caused to be engaged in by a person with the object of gain,  
10 benefit, or advantage, either direct or indirect.

11 (i) "Department" means the revenue division of the depart-  
12 ment of treasury.

13 (j) "Tax" includes all taxes, interest, or penalties levied  
14 under this act.

15 (k) "Tangible personal property" includes computer software  
16 offered for general use by the public or software modified or  
17 adapted to the user's needs or equipment by the seller, only if  
18 the software is available from a seller of software on an as is  
19 basis or as an end product without modification or adaptation.  
20 Tangible personal property does not include computer software  
21 originally designed for the exclusive use and special needs of  
22 the purchaser. As used in this subdivision, "computer software"  
23 means a set of statements or instructions that when incorporated  
24 in a machine usable medium is capable of causing a machine or  
25 device having information processing capabilities to indicate,  
26 perform, or achieve a particular function, task, or result.

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1           (l) "Tangible personal property" beginning September 20,  
2 1999, includes electricity, natural or artificial gas, or steam  
3 and also the transmission and distribution of electricity used by  
4 the consumer or user of the electricity, whether the electricity  
5 is purchased from the delivering utility or from another  
6 provider.

7           (m) "Tangible personal property" does not include a commer-  
8 cial advertising element if the commercial advertising element is  
9 used to create or develop a print, radio, television, or other  
10 advertisement, the commercial advertising element is discarded or  
11 returned to the provider after the advertising message is com-  
12 pleted, and the commercial advertising element is custom devel-  
13 oped by the provider for the purchaser. As used in this subdivi-  
14 sion, "commercial advertising element" means a negative or posi-  
15 tive photographic image, an audiotape or videotape master, a  
16 layout, a manuscript, writing of copy, a design, artwork, an  
17 illustration, retouching, and mechanical or keyline  
18 instructions. "Tangible personal property" includes black and  
19 white or full color process separation elements, an audiotape  
20 reproduction, or a videotape reproduction.

21           (n) "Textiles" means goods that are made of or incorporate  
22 woven or nonwoven fabric, including, but not limited to, cloth-  
23 ing, shoes, hats, gloves, handkerchiefs, curtains, towels,  
24 sheets, pillows, pillowcases, tablecloths, napkins, aprons,  
25 linens, floor mops, floor mats, and thread. Textiles also  
26 include materials used to repair or construct textiles, or other  
27 goods used in the rental, sale, or cleaning of textiles.

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1           (O) "INTERSTATE MOTOR CARRIER" MEANS A PERSON WHO OPERATES  
2 OR CAUSES TO BE OPERATED A QUALIFIED COMMERCIAL MOTOR VEHICLE ON  
3 A PUBLIC ROAD OR HIGHWAY IN THIS STATE AND AT LEAST 1 OTHER STATE  
4 OR CANADIAN PROVINCE.

5           (P) "QUALIFIED COMMERCIAL MOTOR VEHICLE" MEANS THAT TERM AS  
6 DEFINED IN SECTION 1(I), (J), AND (K) OF THE MOTOR CARRIER FUEL  
7 TAX ACT, 1980 PA 119, MCL 207.211.

8           (Q) "DIESEL FUEL" MEANS THAT TERM AS DEFINED IN SECTION 2(P)  
9 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1002.

10           Sec. 3. (1) There is levied upon and there shall be col-  
11 lected from every person in this state a specific tax for the  
12 privilege of using, storing, or consuming tangible personal prop-  
13 erty in this state at a rate equal to 6% of the price of the  
14 property or services specified in section 3a or 3b. Penalties  
15 and interest shall be added to the tax if applicable as provided  
16 in this act. For the purpose of the proper administration of  
17 this act and to prevent the evasion of the tax, it is presumed  
18 that tangible personal property purchased is subject to the tax  
19 if brought into the state within 90 days of the purchase date and  
20 is considered as acquired for storage, use, or other consumption  
21 in this state. BEGINNING APRIL 1, 2003, AS USED IN THIS SUB-  
22 SECTION AND SECTION 4(1)(A), THE TERM "PRICE" MEANS, WITH RESPECT  
23 TO DIESEL FUEL USED BY INTERSTATE MOTOR CARRIERS IN A QUALIFIED  
24 COMMERCIAL MOTOR VEHICLE, THE STATEWIDE AVERAGE RETAIL PRICE OF A  
25 GALLON OF SELF-SERVE DIESEL FUEL AS DETERMINED AND CERTIFIED  
26 QUARTERLY BY THE DEPARTMENT, ROUNDED DOWN TO THE NEAREST 1/10 OF A  
27 CENT. THIS USE TAX ON DIESEL FUEL USED BY INTERSTATE MOTOR

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1 CARRIERS IN A QUALIFIED COMMERCIAL MOTOR VEHICLE SHALL BE  
2 COLLECTED UNDER THE INTERNATIONAL FUEL TAX AGREEMENT.

3 (2) The tax imposed by this section for the privilege of  
4 using, storing, or consuming a vehicle, ORV, manufactured hous-  
5 ing, aircraft, snowmobile, or watercraft shall be collected  
6 before the transfer of the vehicle, ORV, manufactured housing,  
7 aircraft, snowmobile, or watercraft, except a transfer to a  
8 licensed dealer or retailer for purposes of resale that arises by  
9 reason of a transaction made by a person who does not transfer  
10 vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or  
11 watercraft in the ordinary course of his or her business done in  
12 this state. The tax on a vehicle, ORV, snowmobile, and water-  
13 craft shall be collected by the secretary of state before the  
14 transfer of the vehicle, ORV, snowmobile, or watercraft  
15 registration. The tax on manufactured housing shall be collected  
16 by the department of consumer and industry services, mobile home  
17 commission, or its agent before the transfer of the certificate  
18 of title. The tax on an aircraft shall be collected by the  
19 department of treasury. Notwithstanding any limitation contained  
20 in section 2 and except as provided in this subsection, the price  
21 tax base of any vehicle, ORV, manufactured housing, aircraft,  
22 snowmobile, or watercraft subject to taxation under this act  
23 shall be not less than its retail dollar value at the time of  
24 acquisition as fixed pursuant to rules promulgated by the  
25 department. The price tax base of a new or previously owned car  
26 or truck held for resale by a dealer and that is not exempt under  
27 section 4(1)(c) is the purchase price of the car or truck



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1 multiplied by 2.5% plus \$30.00 per month beginning with the month  
2 that the dealer uses the car or truck in a nonexempt manner.

3 (3) The following transfers or purchases are not subject to  
4 use tax:

5 (a) A transaction or a portion of a transaction if the  
6 transferee or purchaser is the spouse, mother, father, brother,  
7 sister, child, stepparent, stepchild, stepbrother, stepsister,  
8 grandparent, grandchild, legal ward, or a legally appointed  
9 guardian with a certified letter of guardianship, of the  
10 transferor.

11 (b) A transaction or a portion of a transaction if the  
12 transfer is a gift to a beneficiary in the administration of an  
13 estate.

14 (c) If a vehicle, ORV, manufactured housing, aircraft, snow-  
15 mobile, or watercraft that has once been subjected to the  
16 Michigan sales or use tax is transferred in connection with the  
17 organization, reorganization, dissolution, or partial liquidation  
18 of an incorporated or unincorporated business and the beneficial  
19 ownership is not changed.

20 (d) If an insurance company licensed to conduct business in  
21 this state acquires ownership of a late model distressed vehicle  
22 as defined in section 12a of the Michigan vehicle code, 1949  
23 PA 300, MCL 257.12a, through payment of damages in response to a  
24 claim or when the person who owned the vehicle before the insur-  
25 ance company reacquires ownership from the company as part of the  
26 settlement of a claim.

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1 (4) The department may utilize the services, information, or  
2 records of any other department or agency of state government in  
3 the performance of its duties under this act, and other depart-  
4 ments or agencies of state government are required to furnish  
5 those services, information, or records upon the request of the  
6 department.

7 Sec. 4. (1) The tax levied under this act does not apply to  
8 the following, subject to subsection (2):

9 (a) Property sold in this state on which transaction a tax  
10 is paid under the general sales tax act, 1933 PA 167, MCL 205.51  
11 to 205.78, if the tax was due and paid on the retail sale to a  
12 consumer. BEGINNING APRIL 1, 2003, IN LIEU OF THE EXCLUSION IN  
13 THIS SUBDIVISION, AN INTERSTATE MOTOR CARRIER SHALL BE ENTITLED  
14 TO A CREDIT UNDER THIS ACT FOR 6% OF THE PRICE OF DIESEL FUEL  
15 PURCHASED IN THIS STATE AND USED IN A QUALIFIED COMMERCIAL MOTOR  
16 VEHICLE. THIS CREDIT SHALL BE CLAIMED ON THE RETURNS FILED UNDER  
17 THE INTERNATIONAL FUEL TAX AGREEMENT.

18 (b) Property, the storage, use, or other consumption of  
19 which this state is prohibited from taxing under the constitution  
20 or laws of the United States, or under the constitution of this  
21 state.

22 (c) Property purchased for resale, demonstration purposes,  
23 or lending or leasing to a public or parochial school offering a  
24 course in automobile driving except that a vehicle purchased by  
25 the school shall be certified for driving education and shall not  
26 be reassigned for personal use by the school's administrative  
27 personnel. For a dealer selling a new car or truck, exemption

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1 for demonstration purposes shall be determined by the number of  
2 new cars and trucks sold during the current calendar year or the  
3 immediately preceding year without regard to specific make or  
4 style according to the following schedule of 0 to 25, 2 units; 26  
5 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but  
6 not to exceed 25 cars and trucks in 1 calendar year for demon-  
7 stration purposes. Property purchased for resale includes promo-  
8 tional merchandise transferred pursuant to a redemption offer to  
9 a person located outside this state or any packaging material,  
10 other than promotional merchandise, acquired for use in fulfill-  
11 ing a redemption offer or rebate to a person located outside this  
12 state.

13 (d) Property that is brought into this state by a nonresi-  
14 dent person for storage, use, or consumption while temporarily  
15 within this state, except if the property is used in this state  
16 in a nontransitory business activity for a period exceeding 15  
17 days. BEGINNING APRIL 1, 2003, THIS SUBDIVISION DOES NOT APPLY  
18 TO DIESEL FUEL THAT IS USED, STORED, OR CONSUMED IN THIS STATE BY  
19 INTERSTATE MOTOR CARRIERS IN QUALIFIED COMMERCIAL VEHICLES.

20 (e) Property the sale or use of which was already subjected  
21 to a sales tax or use tax equal to, or in excess of, that imposed  
22 by this act under the law of any other state or a local govern-  
23 mental unit within a state if the tax was due and paid on the  
24 retail sale to the consumer and the state or local governmental  
25 unit within a state in which the tax was imposed accords like or  
26 complete exemption on property the sale or use of which was  
27 subjected to the sales or use tax of this state. If the sale or

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1 use of property was already subjected to a tax under the law of  
2 any other state or local governmental unit within a state in an  
3 amount less than the tax imposed by this act, this act shall  
4 apply, but at a rate measured by the difference between the rate  
5 provided in this act and the rate by which the previous tax was  
6 computed. BEGINNING APRIL 1, 2003, THIS SUBDIVISION DOES NOT  
7 APPLY TO DIESEL FUEL THAT IS USED, STORED, OR CONSUMED IN THIS  
8 STATE BY INTERSTATE MOTOR CARRIERS IN QUALIFIED MOTOR VEHICLES.

9 (f) Property sold to a person engaged in a business enter-  
10 prise and using and consuming the property in the tilling, plant-  
11 ing, caring for, or harvesting of the things of the soil or in  
12 the breeding, raising, or caring for livestock, poultry, or  
13 horticultural products, including transfers of livestock, poul-  
14 try, or horticultural products for further growth. At the time  
15 of the transfer of that tangible personal property, the trans-  
16 feree shall sign a statement, in a form approved by the depart-  
17 ment, stating that the property is to be used or consumed in con-  
18 nection with the production of horticultural or agricultural pro-  
19 ducts as a business enterprise. The statement shall be accepted  
20 by the courts as prima facie evidence of the exemption. This  
21 exemption includes agricultural land tile, which means fired clay  
22 or perforated plastic tubing used as part of a subsurface drain-  
23 age system for land used in the production of agricultural pro-  
24 ducts as a business enterprise and includes a portable grain bin,  
25 which means a structure that is used or is to be used to shelter  
26 grain and that is designed to be disassembled without significant  
27 damage to its component parts. This exemption does not include

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1 transfers of food, fuel, clothing, or similar tangible personal  
2 property for personal living or human consumption. This exemp-  
3 tion does not include tangible personal property permanently  
4 affixed and becoming a structural part of real estate.

5 (g) Property or services sold to the United States, an unin-  
6 corporated agency or instrumentality of the United States, an  
7 incorporated agency or instrumentality of the United States  
8 wholly owned by the United States or by a corporation wholly  
9 owned by the United States, the American red cross and its chap-  
10 ters or branches, this state, a department or institution of this  
11 state, or a political subdivision of this state.

12 (h) Property or services sold to a school, hospital, or home  
13 for the care and maintenance of children or aged persons, oper-  
14 ated by an entity of government, a regularly organized church,  
15 religious, or fraternal organization, a veterans' organization,  
16 or a corporation incorporated under the laws of this state, if  
17 not operated for profit, and if the income or benefit from the  
18 operation does not inure, in whole or in part, to an individual  
19 or private shareholder, directly or indirectly, and if the activ-  
20 ities of the entity or agency are carried on exclusively for the  
21 benefit of the public at large and are not limited to the advan-  
22 tage, interests, and benefits of its members or a restricted  
23 group. The tax levied does not apply to property or services  
24 sold to a parent cooperative preschool. As used in this subdivi-  
25 sion, "parent cooperative preschool" means a nonprofit, nondis-  
26 criminatory educational institution, maintained as a community  
27 service and administered by parents of children currently

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1 enrolled in the preschool that provides an educational and  
2 developmental program for children younger than compulsory school  
3 age, that provides an educational program for parents, including  
4 active participation with children in preschool activities, that  
5 is directed by qualified preschool personnel, and that is  
6 licensed by the department of consumer and industry services pur-  
7 suant to 1973 PA 116, MCL 722.111 to 722.128.

8 (i) Property or services sold to a regularly organized  
9 church or house of religious worship except the following:

10 (i) Sales in which the property is used in activities that  
11 are mainly commercial enterprises.

12 (ii) Sales of vehicles licensed for use on the public high-  
13 ways other than a passenger van or bus with a manufacturer's  
14 rated seating capacity of 10 or more that is used primarily for  
15 the transportation of persons for religious purposes.

16 (j) A vessel designed for commercial use of registered ton-  
17 nage of 500 tons or more, if produced upon special order of the  
18 purchaser, and bunker and galley fuel, provisions, supplies,  
19 maintenance, and repairs for the exclusive use of a vessel of 500  
20 tons or more engaged in interstate commerce.

21 (k) Property purchased for use in this state where actual  
22 personal possession is obtained outside this state, the purchase  
23 price or actual value of which does not exceed \$10.00 during 1  
24 calendar month.

25 (l) A newspaper or periodical classified under federal  
26 postal laws and regulations effective September 1, 1985 as  
27 second-class mail matter or as a controlled circulation

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1 publication or qualified to accept legal notices for publication  
2 in this state, as defined by law, or any other newspaper or peri-  
3 odical of general circulation, established at least 2 years, and  
4 published at least once a week, and a copyrighted motion picture  
5 film. Tangible personal property used or consumed in producing a  
6 copyrighted motion picture film, a newspaper published more than  
7 14 times per year, or a periodical published more than 14 times  
8 per year, and not becoming a component part of that film, newspa-  
9 per, or periodical is subject to the tax. After December 31,  
10 1993, tangible personal property used or consumed in producing a  
11 newspaper published 14 times or less per year or a periodical  
12 published 14 times or less per year and that portion or percen-  
13 tage of tangible personal property used or consumed in producing  
14 an advertising supplement that becomes a component part of a  
15 newspaper or periodical is exempt from the tax under this  
16 subdivision. A claim for a refund for taxes paid before January  
17 1, 1999 under this subdivision shall be made before June 30,  
18 1999. For purposes of this subdivision, tangible personal prop-  
19 erty that becomes a component part of a newspaper or periodical  
20 and consequently not subject to tax, includes an advertising sup-  
21 plement inserted into and circulated with a newspaper or periodi-  
22 cal that is otherwise exempt from tax under this subdivision, if  
23 the advertising supplement is delivered directly to the newspaper  
24 or periodical by a person other than the advertiser, or the  
25 advertising supplement is printed by the newspaper or  
26 periodical.

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1 (m) Property purchased by persons licensed to operate a  
2 commercial radio or television station if the property is used in  
3 the origination or integration of the various sources of program  
4 material for commercial radio or television transmission. This  
5 subdivision does not include a vehicle licensed and titled for  
6 use on public highways or property used in the transmitting to or  
7 receiving from an artificial satellite.

8 (n) A person who is a resident of this state who purchases  
9 an automobile in another state while in the military service of  
10 the United States and who pays a sales tax in the state where the  
11 automobile is purchased.

12 (o) A vehicle for which a special registration is secured in  
13 accordance with section 226(12) of the Michigan vehicle code,  
14 1949 PA 300, MCL 257.226.

15 (p) A hearing aid, contact lenses if prescribed for a spe-  
16 cific disease that precludes the use of eyeglasses, or any other  
17 apparatus, device, or equipment used to replace or substitute for  
18 any part of the human body, or used to assist the disabled person  
19 to lead a reasonably normal life when the tangible personal prop-  
20 erty is purchased on a written prescription or order issued by a  
21 health professional as defined by section 4 of former 1974  
22 PA 264, or section 3501 of the insurance code of 1956, 1956  
23 PA 218, MCL 500.3501, or eyeglasses prescribed or dispensed to  
24 correct the person's vision by an ophthalmologist, optometrist,  
25 or optician.

26 (q) Water when delivered through water mains or in bulk  
27 tanks in quantities of not less than 500 gallons.



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1 (r) A vehicle not for resale used by a nonprofit corporation  
2 organized exclusively to provide a community with ambulance or  
3 fire department services.

4 (s) Tangible personal property purchased and installed as a  
5 component part of a water pollution control facility for which a  
6 tax exemption certificate is issued pursuant to part 37 of the  
7 natural resources and environmental protection act, 1994 PA 451,  
8 MCL 324.3701 to 324.3708, or an air pollution control facility  
9 for which a tax exemption certificate is issued pursuant to part  
10 59 of the natural resources and environmental protection act,  
11 1994 PA 451, MCL 324.5901 to 324.5908.

12 (t) Tangible real or personal property donated by a manufac-  
13 turer, wholesaler, or retailer to an organization or entity  
14 exempt pursuant to subdivision (h) or (i) or section 4a(a) or (b)  
15 of the general sales tax act, 1933 PA 167, MCL 205.54a.

16 (u) The storage, use, or consumption by a domestic air car-  
17 rier of an aircraft purchased after December 31, 1992 but before  
18 October 1, 1996 for use solely in the transport of air cargo that  
19 has a maximum certificated takeoff weight of at least 12,500  
20 pounds. For purposes of this subdivision, the term "domestic air  
21 carrier" is limited to entities engaged in the commercial trans-  
22 port for hire of cargo or entities engaged in the commercial  
23 transport of passengers as a business activity.

24 (v) The storage, use, or consumption by a domestic air car-  
25 rier of an aircraft purchased after June 30, 1994 but before  
26 October 1, 1996 that is used solely in the regularly scheduled  
27 transport of passengers. For purposes of this subdivision, the

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1 term "domestic air carrier" is limited to entities engaged in the  
2 commercial transport for hire of cargo or entities engaged in the  
3 commercial transport of passengers as a business activity.

4 (w) The storage, use, or consumption by a domestic air car-  
5 rier of an aircraft, other than an aircraft described under  
6 subdivision (v), purchased after December 31, 1994 but before  
7 October 1, 1996, that has a maximum certificated takeoff weight  
8 of at least 12,500 pounds and that is designed to have a maximum  
9 passenger seating configuration of more than 30 seats and used  
10 solely in the transport of passengers. For purposes of this sub-  
11 division, the term "domestic air carrier" is limited to entities  
12 engaged in the commercial transport for hire of cargo or entities  
13 engaged in the commercial transport of passengers as a business  
14 activity.

15 (x) The storage, use, or consumption of an aircraft by a  
16 domestic air carrier after September 30, 1996 for use solely in  
17 the transport of air cargo, passengers, or a combination of air  
18 cargo and passengers, that has a maximum certificated takeoff  
19 weight of at least 6,000 pounds. For purposes of this subdivi-  
20 sion, the term "domestic air carrier" is limited to a person  
21 engaged primarily in the commercial transport for hire of air  
22 cargo, passengers, or a combination of air cargo and passengers  
23 as a business activity. The state treasurer shall estimate on  
24 January 1 each year the revenue lost by this act from the school  
25 aid fund and deposit that amount into the school aid fund from  
26 the general fund.

**HB 5736, As Passed Senate, December 13, 2002**

House Bill No. 5736

19

1           (y) The storage, use, or consumption of an aircraft by a  
2 person who purchases the aircraft for subsequent lease to a  
3 domestic air carrier operating under a certificate issued by the  
4 federal aviation administration under 14 C.F.R. part 121, for use  
5 solely in the regularly scheduled transport of passengers.

6           (z) Property or services sold to an organization not oper-  
7 ated for profit and exempt from federal income tax under section  
8 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26  
9 U.S.C. 501; or to a health, welfare, educational, cultural arts,  
10 charitable, or benevolent organization not operated for profit  
11 that has been issued before June 13, 1994 an exemption ruling  
12 letter to purchase items exempt from tax signed by the adminis-  
13 trator of the sales, use, and withholding taxes division of the  
14 department. The department shall reissue an exemption letter  
15 after June 13, 1994 to each of those organizations that had an  
16 exemption letter that shall remain in effect unless the organiza-  
17 tion fails to meet the requirements that originally entitled it  
18 to this exemption. The exemption does not apply to sales of tan-  
19 gible personal property and sales of vehicles licensed for use on  
20 public highways, that are not used primarily to carry out the  
21 purposes of the organization as stated in the bylaws or articles  
22 of incorporation of the exempt organization.

23           (aa) The use or consumption of services described in  
24 section 3a(a) or (c) or 3b by means of a prepaid telephone call-  
25 ing card, a prepaid authorization number for telephone use, or a  
26 charge for internet access.

**HB 5736, As Passed Senate, December 13, 2002**

House Bill No. 5736

20

1 (bb) The purchase, lease, use, or consumption of the  
2 following by an industrial laundry after December 31, 1997:

3 (i) Textiles and disposable products including, but not  
4 limited to, soap, paper, chemicals, tissues, deodorizers and dis-  
5 pensers, and all related items such as packaging, supplies, hang-  
6 ers, name tags, and identification tags.

7 (ii) Equipment, whether owned or leased, used to repair and  
8 dispense textiles including, but not limited to, roll towel cabi-  
9 nets, slings, hardware, lockers, mop handles and frames, and  
10 carts.

11 (iii) Machinery, equipment, parts, lubricants, and repair  
12 services used to clean, process, and package textiles and related  
13 items, whether owned or leased.

14 (iv) Utilities such as electric, gas, water, or oil.

15 (v) Production washroom equipment and mending and packaging  
16 supplies and equipment.

17 (vi) Material handling equipment including, but not limited  
18 to, conveyors, racks, and elevators and related control  
19 equipment.

20 (vii) Wastewater pretreatment equipment and supplies and  
21 related maintenance and repair services.

22 (2) The property or services under subsection (1) are exempt  
23 only to the extent that the property or services are used for the  
24 exempt purposes if one is stated in subsection (1). The exemp-  
25 tion is limited to the percentage of exempt use to total use  
26 determined by a reasonable formula or method approved by the  
27 department.

**HB 5736, As Passed Senate, December 13, 2002**

House Bill No. 5736

21

1           Sec. 4k. (1) The tax levied under this act does not apply  
2 to parts and materials, excluding shop equipment or fuel, affixed  
3 to or to be affixed to an aircraft owned or used by a domestic  
4 air carrier that is any of the following:

5           (a) An aircraft for use solely in the transport of air cargo  
6 or a combination of air cargo and passengers that has a maximum  
7 certificated takeoff weight of at least 12,500 pounds for taxes  
8 levied before January 1, 1997 and at least 6,000 pounds for taxes  
9 levied after December 31, 1996.

10           (b) An aircraft that is used solely in the regularly sched-  
11 uled transport of passengers.

12           (c) An aircraft other than an aircraft described in subdivi-  
13 sion (b), that has a maximum certificated takeoff weight of at  
14 least 12,500 pounds for taxes levied before January 1, 1997 and  
15 at least 6,000 pounds for taxes levied after December 31, 1996,  
16 and that is designed to have a maximum passenger seating configu-  
17 ration of more than 30 seats and is used solely in the transport  
18 of passengers.

19           (2) For taxes levied after December 31, 1992, the tax levied  
20 under this act does not apply to the storage, use, or consumption  
21 of rolling stock used in interstate commerce and purchased,  
22 rented, or leased by an interstate FLEET motor carrier. A refund  
23 for taxes paid before January 1, 1997 shall not be paid under  
24 this subsection if the refund claim is made after June 30, 1997.

25           (3) For taxes levied after December 31, 1996 and before  
26 May 1, 1999, the tax levied under this act does not apply to the  
27 product of the out-of-state usage percentage and the price

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22

1 otherwise taxable under this act of a qualified truck or a  
2 trailer designed to be drawn behind a qualified truck, purchased,  
3 rented, or leased in this state by an interstate FLEET motor car-  
4 rier and used in interstate commerce.

5 (4) As used in this section:

6 (a) "Domestic air carrier" means a person engaged primarily  
7 in the commercial transport for hire of air cargo, passengers, or  
8 a combination of air cargo and passengers as a business  
9 activity.

10 (b) "Interstate FLEET motor carrier" means a person engaged  
11 in the business of carrying persons or property, other than them-  
12 selves, their employees, or their own property, for hire across  
13 state lines, whose fleet mileage was driven at least 10% outside  
14 of this state in the immediately preceding tax year.

15 (c) "Out-of-state usage percentage" is a fraction, the  
16 numerator of which is the number of miles driven outside of this  
17 state in the immediately preceding tax year by qualified trucks  
18 used by the taxpayer and the denominator of which is the total  
19 miles driven in the immediately preceding tax year by qualified  
20 trucks used by the taxpayer. Miles driven by qualified trucks  
21 used solely in intrastate commerce shall not be included in cal-  
22 culating the out-of-state usage percentage.

23 (d) "Qualified truck" means a commercial motor vehicle power  
24 unit that has 2 axles and a gross vehicle weight rating in excess  
25 of 10,000 pounds or a commercial motor vehicle power unit that  
26 has 3 or more axles.

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1           (e) "Rolling stock" means a qualified truck, a trailer  
2 designed to be drawn behind a qualified truck, and parts affixed  
3 to either a qualified truck or a trailer designed to be drawn  
4 behind a qualified truck.

5           Enacting section 1. This amendatory act does not take  
6 effect unless all of the following bills of the 91st Legislature  
7 are enacted into law:

8           (a) House Bill No. 5734.

9           (b) House Bill No. 5735.